

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Chinmei Chen Lee Douglas William Varney	Examiner:	David J. Czekaj
Serial No.:	09/933,655	Group Art Unit:	2613
Filed:	August 21, 2001	Att'y Docket:	2100.011800
		Conf No:	6676
For: Remotely Initiated Surveillance		Client Docket:	LEE 34-17

REPLY BRIEF**Customer No. 46290****Mail Stop Appeal Brief – Patents**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted in response to the Examiner's Answer dated May 18, 2006. The statutory response due is two months from the date of the Examiner's Answer, therefore, it is due July 18, 2006. Since this Reply Brief is being filed on or before July 18, 2006, it is timely filed.

It is believed that no fee is due for the filing of this Reply Brief. However, should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed material, or should an overpayment be included herein, the Assistant Commissioner is authorized to deduct or credit said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2100.011800.

If an extension of time is required to enable this paper to be timely filed and there is no separate Petition for Extension of Time filed herewith, this paper is to be construed as also

constituting a Petition for Extension of Time Under 37 CFR § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

ARGUMENT

As is evident from the Applicants' Opening Brief and the Examiner's Answer, the issues with respect to this case center on the proper interpretation of "controlling the surveillance of an area with a mobile terminal in which a request for surveillance is received from that mobile terminal and identifying the area that is to be under surveillance," as set forth in the claims when read in light of the specification. The Examiner has maintained that the "controller 6" shows the teaching for "the mobile terminal" for the purposes of the rejection since the "controller 6" receives input to specify or request surveillance of one or more locations from a user. The Examiner's misapplication of *Fernandez* to the claims was addressed by the Applicants in their Opening Brief, where the Applicants specifically identified the numerous flaws in the Examiner's position. As explained below, *Fernandez* does not anticipate or render obvious any of the claims under the Examiner's interpretation.

The Examiner provides no basis for equating the mobile terminal to the controller 6 other than an unsubstantiated, conclusory statement that the portable computer and the mobile terminal both provide computing resources at remote locations. In the Answer, at page 9, the Examiner further notes that since *Fernandez* discloses in Figure 1 and column 6, lines 52-65, that a user can provide input to request current or future monitoring or surveillance of a certain location by using the controller 6, it teaches receiving a request for surveillance from the mobile terminal, as set forth in claim 1. The Examiner asserts that *Fernandez* further discloses in column 8, lines 20-22, that the controller 6 is implemented in a portable computer, thus indicating the controller 6 is mobile. Based on this disclosure, the Examiner concludes that a request is received from the controller 6 of *Fernandez* (the mobile terminal of claim 1, according to the Examiner). See the Examiner's Answer, at page 9. However, the Examiner makes this assertion even though

Fernandez (the Examiner's own reference) does not support the Examiner's position. To the contrary, *Fernandez* uses the term controller 6 differently from the Examiner. As such, the Examiner's interpretation of *Fernandez* is undercut by the teachings of *Fernandez* itself.

Independent claim 1 recites a method of controlling the surveillance of an area with a mobile terminal. The method further includes receiving a request for surveillance from the mobile terminal, identifying the area that is to be under surveillance, and orienting equipment to effect surveillance of the identified area. The Examiner argues that receiving of the request for surveillance from the mobile terminal and identifying the area that is to be under surveillance is described by *Fernandez*.

As can be seen below, when claim 1 is read in the light of the specification, it is clear that "a request for surveillance is received from the mobile terminal." In other words, a message from an operator is transmitted by the mobile terminal to a remote unit in order to induce the remote unit to begin surveillance in accordance with instructions contained within the message which are to be interpreted and implemented at the receiving location." See Applicant's Specification, page 6, lines 30-33. By contrast, *Fernandez* merely describes an arrangement for remote control, in which the user operates the monitor from a remote location by manipulating a dedicated controller. See *Fernandez*, col., 6, lines 59-63 and col. 21, lines 20-38. One difference, among others, between claim 1 and *Fernandez* is that whereas *Fernandez* describes (in pertinent part) a conventional arrangement in which the user operates the monitor directly from a dedicated controller, the invention described in claim 1 involves indirect control, in which a mobile terminal sends a message which must be interpreted at the receiving location and implemented by an autonomous entity at the receiving location.

Contrary to the interpretation discussed by the Examiner in the Answer on pages 8-11, *Fernandez* does not support the Examiner's argument. The Examiner uses the "controller 6" of *Fernandez* to show the teaching for the mobile terminal. However, for reasons presented below, the controller 6 can not be the mobile terminal as alleged by the Examiner. Likewise, the "target unit 4" can not be the "mobile terminal." While claim 1 expressly recites that a request for surveillance is received from the mobile terminal, *Fernandez* describes receiving input to specify or request surveillance from a user at the controller 6 and the controller 6 conveying user instructions and/or modifications of operational attributes of the sensors 44 to the target unit 4. Thus, the target unit 4 of *Fernandez* does not receive a request for surveillance either. Therefore, *Fernandez* is completely silent about receiving a request for surveillance from the mobile terminal. Since the user of the controller 6 provides input to specify or request surveillance of one or more locations, in *Fernandez*, there is no need to identify the area that is to be placed under surveillance, as set forth in claim 1. For these reasons, the claim 1 features differ from teachings suggested by the Examiner's argument.

As understood, *Fernandez* teaches just the opposite of the Examiner's misapplication of *Fernandez*. In particular, the Examiner asserts that the controller 6 of *Fernandez* is implemented in a portable computer and is thus equivalent to a mobile terminal. According to the Examiner, because *Fernandez* teaches monitoring of mobile objects 2 using the controller 6, preferably implemented using a conventional computer, *Fernandez* teaches controlling the surveillance of an area with a mobile terminal in which a request for surveillance is received from that mobile terminal and identifying the area that is to be under surveillance. Applicants respectfully disagree.

In the Office Action, the Examiner cites to col. 8, lines 20-23 of ***Fernandez*** to show a teaching of a receiving feature, *i.e.*, receiving a request from a mobile terminal wherein the controller 6 is indicated to be the mobile terminal, as claimed in claim 1. The Examiner further cites to col. 9, lines 1-5 to show that the user selects the desired objects. The two sections cited by the Examiner provide a teaching contrary to what is claimed in claim 1. That is, in claim 1, a request for surveillance is received from the mobile terminal and the area of surveillance is identified.

The Examiner's reliance on ***Fernandez*** is erroneous. Claim 1 calls for receiving a request for surveillance from the mobile terminal. However, in relying on ***Fernandez***, the Examiner simply ignores the fact that the recited claim feature specifies that the act of receiving a request for surveillance is from the mobile terminal. As noted earlier, there is no request for surveillance that is received from the controller 6 of *Fernandez*. See col. 6, lines 54-59 in ***Fernandez***. In the instant case, because the Examiner asserts that the controller 6 corresponds to the "mobile terminal," the Examiner has failed to show that a request for surveillance is received from the controller 6. For this reason alone, claim 1 is allowable.

In other words, the Examiner cannot use the step of receiving input to specify or request surveillance from a user at the controller 6 to satisfy a different expressly recited claim feature of receiving a request for surveillance from the mobile terminal for controlling the surveillance of an area with that mobile terminal. This is clearly improper because a request for surveillance is not received from the controller 6. For this reason, it follows that ***Fernandez*** does not teach receiving a request for surveillance from the controller 6. Instead, claim 1 calls for receiving a request for surveillance from the mobile terminal. In the instant case, because the Examiner asserts that the controller 6 corresponds to the "mobile terminal," the Examiner has failed to

show that a request for surveillance is received from the controller 6. For this reason alone, claim 1 is allowable.

In *Fernandez*, since it is the user of the controller 6 who provides input that specifies the location of surveillance in the request itself, the area of surveillance, *e.g.*, for monitoring a remote object is not identified to be put under surveillance. See *Fernandez*, col. 6, lines 59-63. In other words, claim 1 calls for placing an area under surveillance in response to a request for surveillance. Indeed, the specification describes that a mobile terminal subscriber may focus the surveillance equipment on an identified area. See patent application, page 2. The specification further describes that the area placed under surveillance may be the location of the subscriber's mobile terminal or a remote area identified by a subscriber. Thus, the claims, when read in light of the specification, indicate that surveillance area may be determined based on the location of the mobile terminal and the surveillance equipment. See the Applicant's patent application, page 6, lines 30-33.

In *Fernandez*, the controller 6 does not identify an area for the surveillance. Instead, it receives input from the user that indicates a request of surveillance of a location identified in the request of surveillance itself. In response to the input from user, the target unit 4 provides the object data for the controller 6 to use for monitoring the positional data associated with a mobile position of the object.

In *Fernandez*, rather than identifying the area that is to be put under surveillance, the controller 6 only uses the object data that the target unit 4 provides for monitoring the positional data associated with a mobile position of a given object. The positional data is generated by a mobile detector that comprises a cellular telephone comprising a global positioning system (GPS) receiver coupled to the given object when the object is movable within an observable

range. See *Fernandez*, col. 21, lines 20-38. The user instructions and/or modifications are conveyed to the target unit 4, for example, to change, select, or adjust particular sensors 44, such as camera focus, zoom, tilt, angle, pan, etc., or other such operation attribute of sensor device 44 of the target unit 4. See *Fernandez*, col., 6, lines 59-63. Thus, the section cited merely specifies examples of conveying various sensor actions to the target unit 4 from the controller 6. Accordingly, the Examiner's application of *Fernandez* to claim 1 is flawed. Claim 1 is thus allowable. For at least the aforementioned reasons, dependent claim 2 and other pending claims are also allowable.

The Examiner also fails to provide any support from *Fernandez* as to precisely which "request for surveillance" is received by the target unit 4. Indeed, *Fernandez* teaches that the only information associated with modifying operational attributes of sensors is conveyed to the target unit 4. Moreover, the Examiner cannot contend that these user instructions/modifications are the "request for surveillance" because the Examiner argues that the controller 6 corresponds to the "mobile terminal" recited in claim 1. In particular, the target unit 4 receives user instructions and/or modifications to change, select, or adjust particular sensors, such as camera focus, zoom, tilt, angle, pan, etc., or other such operational attribute of sensor device 44 of the target unit 4. That is, at most, the target unit 4 receives instructions and/or modifications to modify attributes of operational sensor(s) equipment from the controller 6 to effect surveillance.

The above-indicated citations provided by the Examiner by no means support the Examiner's contention that the mobile terminal recited in claim 1 corresponds to the controller 6. In fact, *Fernandez* indicates otherwise, as the described embodiments clarify that the target unit 4, which is separate from the controller 6, is a mobile detector that provides the GPS data for a

given object to the controller 6, enabling the controller 6 to monitor the positional data associated with a mobile position of such given object.

While ***Fernandez*** indicates that the controller 6 may be a portable computer, it appears that the Examiner confuses the “portable” nature of the controller 6 with the “mobile terminal” of claimed invention in claim 1. The phrase “mobile terminal” as it is used in claim 1, appears to cause confusion from a misunderstanding of the phrase “mobile” as it is used in the cited reference. The phrase “portable computer,” as it is used in ***Fernandez***, does not state that “the controller 6” comprises a “mobile terminal,” that receives a request for surveillance to control the surveillance of an area with that mobile terminal. Rather, ***Fernandez*** indicates that controller 6 and the target units 4 are two distinct devices that are wirelessly connected. See ***Fernandez***, col. 5, lines 35-43. The target unit 4 includes a sensor unit 44 and the controller 6 conveys user instructions and/or modifications to the target unit 4 to change, select, or adjust particular sensors 44, such as camera, focus, zoom, tilt, angle, pan, etc., or other such operation attribute of sensor device 44 of the target unit 4. Thus, the Examiner’s reliance on ***Fernandez*** to expressly teach the claim 1 features is not supported by the cited reference, but is rather a misunderstanding of the cited text on which the Examiner has rested the arguments to supposedly teaching the claimed invention in claim 1. Therefore, ***Fernandez*** fails to disclose or suggest all the limitations in the method of claim 1. Applicants respectfully request the rejection of claims 1-2 over ***Fernandez*** be reversed because the prior art does not anticipate or obviate any of the pending claims.

In the Answer, the Examiner essentially repeated the rejections of claims 1-9 and 11-21 as set forth in the final rejection of this application. It is believed that the reasons that those rejections are improper are expressly set forth in the Appeal Brief filed in this matter.

With respect to claim 2, claim 2 refers to using information from the mobile terminal to identify the area that is to be under surveillance. In contrast, the Examiner cites a reference in which information from the target unit 4 (a wirelessly coupled device to the controller 6, which according to the Examiner corresponds to the mobile terminal in claim 1) is used to provide the positional data. In other words, it is not the controller 6 from which the information is used to identify the area that is to be under surveillance. To the contrary, positional data from the target unit 4 is relied upon to make this determination. Thus, to this extent, the arguments presented above with respect to claim 1 are also applicable here, Applicants respectfully request that the rejection of claim 2 under the 35 U.S.C. §102, be reversed.

With respect to rejections of independent claim 1 and claim 18 as being anticipated by *Sato*, claim 1 is discussed herein since claim 1 is representative of the Examiner's rejection. Although claim 1 is specifically addressed, the analysis presented also applies to independent claim 18, as those claims also include the same or similar features of claim 1.

In rejecting claim 1, the Examiner argues that *Sato* discloses an apparatus that relates to remote control for a radio phone used for surveillance. The Examiner further states that this apparatus comprises "receiving a request from a mobile terminal". The Examiner cites to Figure 1, col. 4, lines 38-45 in *Sato*. As noted, the Examiner overlooks the nature of the request of the video phone in *Sato*. Thus, according to the Examiner, because *Sato* teaches receiving a request from a video phone, *Sato* teaches receiving a request for surveillance from the mobile terminal, as set forth in claim 1. The Applicants respectfully disagree.

Sato is directed to a cellular phone set 1, which can be used as a remote surveillance monitor. The cellular phone set 1 shown in Figure 1, in *Sato*, generates camera control requests to a connection destination; however these requests are not for surveillance from the cellular

phone set 1. In other words, there is no teaching in *Sato* as to receiving a request of surveillance from the cellular phone set 1. Instead of controlling the surveillance of an area with the cellular phone set 1, *Sato* teaches controlling a destination camera. Data for controlling the destination camera is transmitted, as described in col. 5, lines 3-4. In other words, the data controls the destination camera instead of controlling the surveillance of an area with the cellular phone set 1. Additionally, rather than orienting equipment to effect surveillance of the identified area, *Sato* teaches that in response to the control information in received data, the operation of the camera itself is controlled. That is, the operation of the camera which generates the camera control request is controlled instead of orienting equipment. In other words, there is no teaching of orienting the destination camera. In this way, the Examiner fails to establish anticipation based on teachings of *Sato*. For at least the aforementioned reasons, independent claims 1 and 18 are allowable and the Applicants respectfully request that the rejection of claims 1 and 18 under the 35 U.S.C. §102, be reversed.

With respect to rejection of independent claims 1 and 22, claim 1, which is representative of similar or same features in both the rejected claims, is discussed herein. Claim 1 is directed to controlling the surveillance of an area with the mobile terminal and calls for receiving a request for surveillance from a mobile terminal. The method of claim 1 further includes identifying the area that is to be under surveillance.

The Examiner alleges that *Hsieh* teaches both the receiving and identifying features set forth in claim 1. The Applicants respectfully disagree.

The Examiner's assertion that a request for surveillance is received from the "mobile terminal" of claim 1 corresponds to "the portable image monitor" and that the camera rotation switch requests the camera to be rotated is not supported by the teachings of *Hsieh*. *Hsieh* is

directed to a portable image monitor for controlling an indoor camera. The portable image monitor includes a camera rotation switch. The camera rotation switch, for example, may be a button or a joy stick, etc. See *Hsieh*, col. 2, lines 10-12. At most, *Hsieh* teaches a button or a joy stick for the camera rotation. As such, a request for surveillance is not and cannot be received from the portable image monitor 3.

For achieving the object of monitoring, the portable image monitor 3 communicates with the safety patrol box 2. See *Hsieh*, col. 3, lines 18-21. Indoor image monitoring can be performed through the outdoor safety patrol box 2. See *Hsieh*, col. 4, lines 57-58. If the portable image monitor 3 is the mobile terminal, as the Examiner contends, then, the Examiner's assertion effectively undermines the expressly stated advantage of *Hsieh*. That is, portable image monitor 3 would receive a request or signal for controlling an indoor camera. In contrast, as stated in *Hsieh*, when the residents go out or an alarm emits, the portable image monitor of neighbors, community managers, or safe guard members or police will monitor. See *Hsieh*, col. 4, lines 45-50. Thus, *Hsieh* does not teach receiving a request for surveillance from the portable image monitor 3.

Moreover, since the secure image monitoring system of *Hsieh* teaches remotely monitoring a predetermined local site, there cannot be any need for identifying the area that is to be under surveillance. In other words, *Hsieh* fails to identify the area that is to be under surveillance. See *Hsieh*, col. 5, lines 7-8. The claim 1 expressly refers to identifying the area that is to be under surveillance, and the Examiner simply ignores the claim language. Accordingly, *Hsieh* fails to teach one or more claimed features of claim 1. Therefore, claim 1 and independent claim 21 are allowable. To the extent the arguments presented above are

applicable to the Examiner's rejections based on the aforementioned reasons, the Applicants respectfully request that the rejection of claims 1 and 21 under the 35 U.S.C. §102, be reversed.

The Applicants respectfully submit that claims 3-10, 12-17, and 20 are not rendered obvious to one having an ordinary skill in the pertinent art in view of the ***Fernandez*** and ***Kawai*** references, considered either alone or in combination. That is, a *prima facie* case of obviousness is absent since these references fail to teach or suggest all the recited features. Specifically, as set forth above with respect to the rejections of claim 1, ***Fernandez*** fails to teach or suggest control of surveillance of an area with a mobile terminal, as claimed in independent claim 1. The Examiner relies on ***Kawai*** to teach use of information from at least one base station to identify the area that is to be under surveillance. However, ***Kawai*** fails to teach or suggest a surveillance control of an area with a mobile terminal.

The Examiner's proposed combination of applying the teachings of ***Fernandez*** (which does not teach or suggest receiving a request of surveillance from the mobile terminal) runs contrary to the teachings of ***Kawai*** (which teaches use of information from at least one base station to identify the area that is to be under surveillance). As indicated above, ***Fernandez*** teaches an integrated system for monitoring remote objects that uses a controller to control a corroborative surveillance of an object based on positional data and visual data. In fact, ***Fernandez*** teaches away from a video surveillance system in which a mobile terminal controls the surveillance of an area and issues a request for surveillance. Furthermore, the cited references fail to provide any suggestion or motivation to modify a reference or to combine reference teachings to arrive at the Applicants' claimed invention. For this additional reason, the pending claims 3-10, 12-17, and 20 are allowable and the Applicants respectfully request that the rejection of claims 3-10, 12-17, and 20 be reversed.

The Examiner relies on ***Ozaki*** to teach that a person at the mobile terminal is in audio communication via a wireless network with an attendant at a video monitor. However, ***Ozaki*** fails to teach or suggest controlling the surveillance of an area with a mobile terminal based on a request for surveillance from the mobile terminal. Furthermore, the cited references fail to provide any suggestion or motivation to modify a reference or to combine reference teachings to arrive at the Applicants' claimed invention. Therefore, Applicants submit that, even if combined, the claimed invention will not result from the cited references because the cited references fail to provide any suggestion or motivation for controlling the surveillance of an area with a mobile terminal.

For at least the aforementioned reasons, Applicants respectfully submit that the present invention is not *prima facie* obvious in view of the cited references. Applicants request that the Examiner's rejection of claim 11 should be reversed.

Claim 19 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over ***Sato*** in view of U.S. Patent No. 5,917,958 to Nunally *et al.*, (***Nunally***). The Applicants respectfully submit that these claims are not rendered obvious to one having an ordinary skill in the pertinent art in view of the ***Sato*** and ***Nunally*** references, considered either alone or in combination. That is, a *prima facie* case of obviousness is absent since these references fail to teach or suggest all the recited features.

Claim 19, in part, calls for a wireless telecommunication system, wherein the request for surveillance from the mobile terminal is effected by activating a menu and selecting a surveillance option from the menu. However, as set forth above, ***Sato*** describes that the requests are not for surveillance from the cellular phone set 1, as claimed in claim 19. The Examiner relies on ***Nunally*** to teach activating a menu and selecting a surveillance option from the menu

for the request for surveillance. However, *Nunally* fails to provide any suggestion or motivation to modify *Sato* or to combine reference teachings to arrive at the Applicants' claimed invention. Applicants request that the Examiner's rejection of claim 19 should be reversed.

In view of the foregoing, Applicants respectfully submit that the Examiner's assertion that the inventions defined in the pending claims are anticipated by *Fernandez*, *Sato* and *Hsieh* is flawed. Some of the other pending claims that stand rejected are not rendered obvious in view of *Fernandez*, *Kawai*, *Ozaki*, *Sato* and *Nunally*, or any other art of record, necessarily involved an improper use of hindsight using Applicant's disclosure as a roadmap. A recent Federal Circuit case makes it crystal clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 143 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35. Accordingly, it is respectfully submitted that the Examiner erred in not allowing claims 1-9 and 11-21 over the prior art of record. Applicant respectfully requests the Board reverse the Examiner's rejections.

In light of the arguments presented above, Applicants respectfully assert that all of the claims are allowable. Accordingly, a Notice of Allowance is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned at the Houston, Texas telephone number (713) 934-4089 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

Date: July 18, 2006

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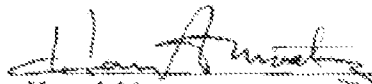
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